

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OLAREE E. HOPPEL,

Plaintiff,

v.

PREMERA BLUE CROSS,

Defendant.

CASE NO. C10-1686 RAJ

ORDER

This matter comes before the court on *pro se* plaintiff Olaree Hoppel's 60(b)(4) motion for relief from judgment. Dkt. # 64.

"Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard." *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010). Plaintiff has not alleged either basis. Instead, she makes allegations of fraud, which would fall under Rule 60(b)(3). However, a motion under Rule 60(b)(3) "must be made within a reasonable time . . . no more than a year after the entry of the judgment or order or the date of the proceeding." Fed. R. Civ. Proc. 60(c)(1). The court entered judgment on May 10, 2011. Dkt. # 53. More than one year has expired. Additionally, plaintiff's fraud allegations fail on the merits. Plaintiff did not

1 prove by clear and convincing evidence that the judgment was obtained through fraud,
2 misrepresentation, or other misconduct and that the conduct complained of prevented her
3 from fully and fairly presenting her case. *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260
4 (9th Cir. 2004).

5 For all the foregoing reasons, the court DENIES plaintiff's motion. The court also
6 declines defendant's request to be relieved from responding to further filings by Ms.
7 Hoppel. Nevertheless, the court warns Ms. Hoppel that if she files any further motions in
8 this case, and the court finds the motion to be frivolous, the court will be inclined to grant
9 any request for attorney's fees incurred as a result of opposing such motions. *See* Local
10 Rules W.D. Wash. CR 11(c).

11 Dated this 5th day of November, 2013.

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14 The Honorable Richard A. Jones
15 United States District Judge
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